

RAMOS, Horacio C.

Re: Legal Opinion; Employment
of Scholarship Grantees

X-----X

RESOLUTION NO. 020981

Horacio C. Ramos, Director, Mines and Geosciences Bureau (MGB), Department of Environment and Natural Resources (DENR), requests an opinion/ruling on whether it is mandatory for an agency which awarded a scholarship grant to deserving individuals to hire the grantees at the end of such grant.

The pertinent portions of the letter of Director Ramos read, as follows:

"This has reference to the Mines and Geosciences Bureau Scholarship grantees who are to be graduating soon. Two (2) will be graduating with the Bachelors Degree in Geology and three (3) with the Bachelors Degree in Mining Engineering.

"In the Contract of Scholarship Grant entered into by and between them and the Bureau . . . Section 111 thereof provides that the grantee shall report immediately to the Bureau for employment within one (1) month from date of graduation. This commitment to employ these scholarship grantees immediately after graduation is putting the Bureau in a predicament because of the lack of funds for wages to hire emergency employees and the present policy of the Civil Service Commission of not allowing the hiring under temporary status of non-holders of RA 1080 or second level eligibility when there are CSC certified eligibles available in its roster.

X X X

"In view thereof, it is respectfully requested that this Bureau be allowed to appoint its scholarship grantees to Science Research Specialist II positions in a temporary status for the duration of one (1) year only without extension if they fail to acquire the required civil service eligibility within the one (1) year period."

As gleaned from the records, the Mines and Geosciences Bureau (MGB) awarded scholarship grants to five (5) high school graduates, namely: Richelle C. Awid, Katrina C. Lopez, Vicarthur A. Tango-an, Bernard P. Baluda and Evelyn H. Cantila. Further, a perusal of their respective Contract of Scholarship Grant with the MGB reveals that Awid and Lopez took the course of Bachelor of Science in Geology while Tango-an, Baluda and Cantila took Bachelor of Science in Mining Engineering.

The contract does not stipulate that the grantees are required to acquire eligibility after earning their degree.

In his letter, Director Ramos alleged that since the said grantees have already completed their respective courses, they would now report to the MGB pursuant to their Contract of Scholarship Grant. However, since the grantees do not possess any civil service eligibility and the MGB lacks funds to employ them in a permanent capacity, Director Ramos suggests that they be appointed under temporary status for a period of one (1) year. He also represented that appointments of these grantees will not be renewed if they fail to acquire the required eligibility within the period of their temporary appointments.

Hence, this query.

Relevant to the instant request are **Sections 17 and 19, Rule VIII of the Omnibus Rules Implementing Book V of Executive Order No. 292 (The Administrative Code of 1987)** which provide:

"SEC. 17. In consideration of nominee's acceptance to local or foreign training scholarship grant whether in the academic or non-academic program including extension, he shall serve his office or any other government office or instrumentality thereof as the exigencies of the service may require for the specified period as may be provided under the training contract.

X X X

"SEC. 19. Should the grantee fail to fulfill his service requirement due to transfer to a private entity or resignation, he shall pay back his agency the full amount spent for his/her entire training/scholarship grant."
(Underlining ours)

However, **Number 3.1, Item III of the Contract of Scholarship Grant** (entered into by the MGB and the grantees), specifically provides:

"III. Service Obligation:

"3.1. The Grantee shall report immediately to the Bureau within one (1) month from date of graduation for employment and at the discretion of the Director, he/she may be assigned either in the Central Office or any Regional Office.

"3.2. The Grantee shall serve the Bureau for two (2) years for every year or fraction of scholarship.

*"3.3 The Grantee who, while rendering his/her service-commitment in the Bureau **commits any violation or infraction of any decree, law, civil service rules and regulations resulting in his/her dismissal from his/her employment, shall refund all expenses incurred by the Bureau relative to his/her scholarship grant. Such refund, however shall be pro-rata in accordance with the service already rendered by the grantee.***

"3.4 In the event that the Grantee resigns prior to the completion of his/her service commitment, he/she shall refund the expenses incurred under the scholarship. However, if he/she has already serviced 75% of the service-commitment, he/she shall be allowed to refund only the monetary equivalent of the unserved period. Reimbursement or refund will be allowed only if he/she shall serve at least 25% of his/her service commitment." (Emphasis supplied)

From the foregoing, it is safe to conclude that the scholarship grantees are obliged to serve the agency which awarded the scholarship grant. However, the MGB is not obliged to hire them under permanent capacity since they do not possess the required civil service eligibilities. It should also be noted that the contract does not stipulate the acquisition of the eligibility on the part of the grantees for it only imposes, *inter alia*, that grantees earn and finish the degree subject of the scholarship. It must be mentioned that Section 2 (b), Rule III of the Omnibus Rules on Appointments and Other Personnel Actions (Civil Service Commission Memorandum Circular No. 40, s. 1998) defines *temporary appointment* as one *issued to a person who meets the education, experience and training requirements for the position to which he is being appointed except for the appropriate eligibility but only in the absence of a qualified eligible actually available, as certified to by the Civil Service Regional Director or Field Officer.*

Thus, the grantees may be issued temporary appointments since they do not possess the required eligibility. Moreover, the MGB shall have the option not to renew their appointments 1) if they fail to acquire the required civil service eligibilities for the position to which they were appointed after a period of one (1) year; and 2) a qualified eligible is actually available.

Finally, in accordance with the Contract of Scholarship Grant they signed, the grantees may be ordered to refund the amount spent by MGB for their education equivalent to the service obligation they failed to render if they were allowed to render service for at least two (2) years but 1) they resigned prior to the completion of their two (2) year service commitment or 2) they commit any violation or infraction of any decree, law, civil service rules and regulations resulting in their dismissal from employment.

WHEREFORE, the Commission hereby rules that the Mines and Geosciences Bureau (MGB), Department of Environment and Natural Resources, may hire their scholarship grantees under temporary status, subject to pertinent Civil Service Law and rules. However, if the said grantees fail to acquire the required civil service eligibilities within a period of one (1) year from the time they were appointed, then the MGB has the option not to renew their appointments if there is a qualified eligible actually available. Moreover, they shall be liable for the amount spent by the MGB for their education equivalent to the service obligation, which they failed to render to the said agency if 1) they resign prior to the completion of their respective service commitments and 2) they commit any violation or infraction of any decree, law, civil service rules and regulations resulting in their dismissal from employment.

Quezon City, JUL 24 2002

(Signed)
JOSE F. ERESTAIN, JR.
Commissioner

(Signed)
KARINA CONSTANTINO-DAVID
Chairman

(Signed)
J. WALDEMAR V. VALMORES
Commissioner

Attested by:

(Signed)
ARIEL G. RONQUILLO
Director III

*FPG/KPZ/X8/Y11(30)/rco
ramos2/NDC-02-0306*